

NOTICE OF PROPOSED MODIFICATIONS TO PROPOSED REGULATIONS

Pursuant to the requirements of subdivision (c) of Section 11346.8 of the Government Code and Section 44 of Title of the California Code of Regulations, the Secretary of State is providing notice of proposed changes to proposed Sections 22610.1 and 22610.2 of Chapter 11 of Division 7 of Title 2 of the California Code of Regulations. No changes are proposed with respect to proposed Sections 22610.3 and 22610.4.

If you have any comments regarding the proposed modifications to the regulations, the Secretary of State shall accept written comments from March 16, 2006 to April 3, 2006, at 5:00 p.m. All written comments must be submitted to the Secretary of State no later than 5:00 p.m. on April 3, 2006, and must be addressed to: Secretary of State, Attention: Tony Miller, 1500 11th Street, 2nd Floor, Sacramento, CA 95814. The Secretary of State shall respond to all written comments received on or before 5:00 p.m. on April 3, 2006, that pertain to the indicated modifications.

TEXT OF PROPOSED MODIFICATIONS TO REGULATIONS

The Secretary of State has illustrated the proposed changes to Sections 22610.1 and 22610.2 of the proposed regulations in the following manner: c hanges in the original regulations are **highlighted in bold**. However, the changes indicated with respect to the numbering and lettering relate only to the addition of underlining that was inadvertently omitted from the original text. No deletions are proposed with respect to the proposed regulations or modifications to the proposed regulations. No changes are proposed with respect to Sections 22610.3 and 22610.4. The text of all of the proposed regulations, as modified, follows.

Add Article 1, Chapter 14, Division 7, Title 2, California Code of Regulations:

Advance Health Care Directive Registry

Section 22610.1. Definitions.

(a) The following definitions shall apply for purposes of Probate Code sections 4800 and 4801:

(1) "Health care provider" means an individual licensed, certified, or otherwise authorized or permitted by the law of California or of any other jurisdiction to provide health care in the ordinary course of business or practice of a profession **who is providing health care to the registrant.**

(2) "The public guardian" means a public official of any jurisdiction who is serving in his or her official capacity as the guardian or conservator for the registrant.

(3) "The legal representative of the registrant" means an individual who is either:

(A) serving as the guardian or conservator for the registrant pursuant to an order of a court of any jurisdiction; or

(B) designated in a current written advance health care directive or similar written document registered with the Secretary of State to make health care decisions for the registrant.

(b) The following definition shall apply for purposes of Probate Code section 4801:

(1) "Other authorized persons" means the legal representatives of registrants as defined in Section 22610.1(a)(3) of Article 1, Chapter 14, Division 7, Title 2, California Code of Regulations.

NOTE: Authority cited: Sections 4800(a), 4801, Probate Code.
Reference: Sections 4800(a), 4800(e), and 4801, Probate Code.

Section 22610.2. Registrations.

(a) The Secretary of State shall prescribe the form for registering a written advance health care directive. A registration of a written advance health care directive with the Secretary of State shall be made using that form. The form shall be available for downloading on the Secretary of State's website. **All or any part of the form may be completed by the registrant or by another adult in the registrant's presence and at the registrant's direction.** The form may include the following:

- (1) The name and number of the form;
- (2) The name and seal of the agency promulgating the form;
- (3) Space for the Secretary of State's Office to record filing information and file number;
- (4) The statutory and regulatory citations for the program to which the form relates;
- (5) The fee for filing the form and any amendments or revocations involving the form or the written advance health care directive to which the form relates;
- (6) Instructions regarding the completion, amendment, revocation or filing of the form or registering, revoking or changing a written advance health care directive to which the form relates;
- (7) The information required to be provided to registrants pursuant to Probate Code section 4802;
- (8) The address where the completed form is to be filed;
- (9) Contact information for obtaining, completing, or filing the form;
- (10) Numbers, letters, lines or graphics that assist in understanding or completing the form;
- (11) Space for the person completing the form to indicate:
 - (A) Whether the form is a new registration, an amendment to a prior registration, a revocation of a prior registration or notification regarding an amendment to or revocation of a previously-filed written advance health care directive;
 - (B) Whether the written advance health care directive or amendment to a previously-filed written advance health care directive is attached to the form or, in the alternative, whether the form provides notification of the intended place of deposit or safekeeping of a written advance health care directive or amendment to a written advance health care directive;
 - (C) The information specified in Probate Code section 4800(c), including name, social security number, driver's license number, or other individual identifying number established by law, if any, address, date and place of birth, and the name and telephone number of the

agent and any alternative agent;

(D) Intended place of deposit or safekeeping of the written advance health care directive or amendment to the written advance health care directive to which the form relates, if applicable;

(E) The signature and printed name of the registrant;

(F) The date the form is signed by the registrant.

(12) Any other information or material required or specifically authorized by statute or regulation to be included on the form.

(b) The registration form or the material included with the registration card provided pursuant to Probate Code section 4800(d) shall contain the information required to be provided to registrants pursuant to Probate Code section 4802.

NOTE: Authority cited: Sections 4800(a), 4802, Probate Code.

Reference: Sections 4800(c), 4800(d), 4802(a), 4802(b), 4802(c), Probate Code.

Section 22610.3. Fees.

(a) The fee for registering a written advance health care directive with the Secretary of State is \$10.00 for each registration.

(b) There shall be no fee charged for filing any form amending or revoking a registration or notification that a previously-filed written advance health care directive or similar document has been amended or revoked.

NOTE: Authority cited: Sections 4800(a), 4800(f), Probate Code.

Reference: Sections 4800(d), 4800(f), 4801, Probate Code.

Reference: Sections 4800(d), 4800(f), 4801, Probate Code.

Section 22610.4. Requests for Information.

(a) All requests for information, including requests pursuant to Probate Code section 4717 by an emergency department of a general acute care hospital, shall be in writing and must include all of the following:

(1) The name, address and telephone number of the requestor;

(2) Credible evidence establishing the identity of the requestor. In determining whether the identity of the requestor is established by credible evidence, the Secretary of State may consider requestor's use of business letterhead in making the request, a copy of a driver's license or identification card issued by the California Department of Motor Vehicles, a copy of a United States passport, or copies of other credible identification documents;

(3) A statement by the requestor establishing his or her authority to receive the information requested;

(4) The identity of the individual for whom the information is requested. In establishing the identity of the individual for whom the information is requested, the Secretary of State may consider the presentation by

the requestor of any information contained in or on the filed registration form, including a file number, date of birth, place of birth, social security number, driver's license number or other identifying number; and

(5) A statement setting forth the reason the information is needed.

NOTE: Authority cited: Sections 4800(a), 4801, Probate Code.

Reference: Sections 4800(a), 4800(b), 4800(c), and 4801, Probate Code.